

Appellant-defendant William Owen appeals the sentence imposed by the trial court after Owen pleaded guilty to Forgery,¹ a class C felony. Owen argues that the trial court erroneously failed to consider his guilty plea to be a mitigating circumstance and that the four-year sentence imposed by the trial court is inappropriate in light of the nature of the offense and Owen's character. Finding no error, we affirm the judgment of the trial court.

FACTS

On February 20, 2007, Owen was arrested after he attempted to cash a \$350 check that had been reported stolen. The State charged Owen with class C felony forgery and class D felony attempted theft. On May 17, 2007, Owen pleaded guilty to class C felony forgery in exchange for the State's agreement to dismiss the attempted theft charge and to forego filing a habitual offender enhancement. The parties' plea agreement placed a cap of four years on Owen's sentence. On July 10, 2007, the trial court held a sentencing hearing, finding Owen's "extensive" criminal history to be an aggravator and finding no mitigating circumstances. Tr. p. 22-23. The trial court imposed a four-year executed sentence on Owen, who now appeals.

DISCUSSION AND DECISION

I. Sentencing Statement

Owen first contends that the trial court abused its discretion in sentencing Owen because it failed to consider his guilty plea to be a mitigating circumstance. We review

¹ Ind. Code § 35-43-5-2(b).

challenges to the trial court's sentencing process for an abuse of discretion. Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007). The trial court may abuse its discretion in the following ways during the sentencing process: (1) by failing to enter a sentencing statement; (2) by entering a sentencing statement that includes reasons not supported by the record; (3) by entering a sentencing statement that omits reasons clearly supported by the record and advanced for consideration; or (4) by entering a sentencing statement that includes reasons that are improper as a matter of law. Id. at 490-91.

Our Supreme Court has held that "a defendant who pleads guilty deserves 'some' mitigating weight be given to the plea in return." Anglemyer v. State, 875 N.E.2d 218, 220 (Ind. 2007). The court went on to explain, however, that

an allegation that the trial court failed to identify or find a mitigating factor requires the defendant to establish that the mitigating evidence is not only supported by the record but also that the mitigating evidence is significant. And the significance of a guilty plea as a mitigating factor varies from case to case. For example, a guilty plea may not be significantly mitigating when it does not demonstrate the defendant's acceptance of responsibility, . . . or when the defendant receives a substantial benefit in return for the plea.

Id. at 220-21 (citations omitted). Here, in exchange for Owen's guilty plea, the State agreed to dismiss a class D felony attempted theft charge, forego a habitual offender enhancement, and cap Owen's sentence at four years. Inasmuch as it is evident that Owen reaped a substantial benefit from his guilty plea, he has failed to establish that the mitigating evidence is significant. Thus, we decline to find that the trial court abused its discretion by failing to consider Owen's guilty plea to be a mitigating circumstance.

II. Appropriateness

Owen next argues that the sentence is inappropriate in light of the nature of the offense and his character. Pursuant to Indiana Appellate Rule 7(B), we may revise a sentence where, after due consideration of the trial court's sentencing determination, we find that the sentence imposed is inappropriate in light of the nature of the offense and the defendant's character. In reviewing a Rule 7(B) appropriateness challenge, we defer to the trial court. Stewart v. State, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006).

Here, the State concedes that the nature of Owen's offense "is not so serious as to require anything more than the advisory sentence," which is four years imprisonment. Ind. Code § 35-50-2-6(a). Specifically, Owen defrauded a person of \$350 by filling out and presenting a check that he was not authorized to possess.

Turning to Owen's character, we must focus on his extensive criminal history, which began in 1975 and includes five felony convictions, eight misdemeanor convictions, and multiple probation violations. Owen also has a history of substance abuse. Owen argues that he had not been arrested for nearly ten years prior to the instant offense and that he had completely stopped drinking and using controlled substances three years prior to his actions herein. We applaud Owen for his efforts to combat substance abuse and comply with the law; unfortunately, he has not entirely succeeded, inasmuch as he committed a felony in this case. Although the nature of the offense and Owen's character may not have supported an enhanced sentence, we believe that his

extensive criminal history supports the advisory four-year sentence imposed by the trial court. Thus, we do not find the sentence to be inappropriate.

The judgment of the trial court is affirmed.

DARDEN, J., and BRADFORD, J., concur.